

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83900 of 2024

Arising Out of PS. Case No.-47 Year-2024 Thana- DARIYAPUR District- Saran

Vivek Rai Son of Umesh Rai Resident of village- Bhushi Tola, P.S.-
Dariyapur, Distt.- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kumari, Adv.
For the Opposite Party/s : Mr.Md. Nazir Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 21-02-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Dariyapur P.S. Case No. 47 of 2024 dated 31.01.2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 256.35 litres of illicit foreign liquor was recovered from the *Dalan* of the co-accused, Upendra Rai.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the alleged recovery of illicit liquor



was made from the *Dalan* of the co-accused, Upendra Rai. The petitioner has no concern with the alleged recovery. Nothing has been recovered from conscious possession of the petitioner hence, no case is made out. The petitioner has one criminal antecedent as stated in paragraph no. 3 of the bail application. The co-accused person has already been granted anticipatory bail by this court vide order dated 13.09.2024 passed in Cr. Misc. No. 49499 of 2024. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his



arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Saran at Chapra, in connection with Dariyapur P.S. Case No. 47 of 2024, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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